IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07/09/2004

CORAM:

THE HONOURABLE MR.JUSTICE A.K.RAJAN

WRIT PETITION NO. 6600 OF 1997

Pranava Alloy Castings (P) Ltd.,
Coimbatore rep. by the Managing
Director D.Soundararajan. .. Petitioner

-Vs-

1. The State of Tamil Nadu
rep. by its Secretary to
Government, Industries (MIG II)
Department,
Fort St. George, Madras-9.

2. The Chairman and Managing Director,
Tamil Nadu Industrial Investment
Corporation Ltd., Nandanam,
Madras-35. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari as stated therein.

For petitioner : Mr.M.Venkatachalapathy
Senior Counsel for
Mr.M.Sriram.

For 1st respondent: Mr.S.V.Duraisolaimalai,
Govt.Advocate
For 2nd respondent: Mrs.Rita Chandrasekar.

:ORDER

This writ petition has been filed by the petitioner praying to issue a writ of certiorari calling for the entire records of the second respondent relating to the impugned order dated 23.8.1995 and quash the same.

2. Heard the learned counsel for both and perused the records.

3. The petitioner is an industry started in an industrially backward

area. While starting the Industry, the Tamil Nadu Industrial Investment Corporation by its order dated 23.2.1993 has sanctioned a sum of Rs.15.00 lakhs as subsidy to the petitioner's unit. Thereafter, the Government in G.O.Ms.No.88 Energy (A2) Department dated 18.5.1994 has passed an order to the effect that the new steel industries who get sanction of loan on or after 18.5.1994 shall not be eligible for any tariff concessions, which is extracted here under:-

" 2. The Government, after careful consideration, have decided that the tariff concession provided to the new industries under High Tension Tariff-I shall be withdrawn in respect of steel industries only, and to issue necessary amendment to the Schedule to the Tamil Nadu Revision of Tariff Rates on Supply of Electrical Electrical Energy Act, 1978 (Tamil Ndu Act 1 of 1979).

3. The following Notification will be published an extraordinary issue of the Tamil Nadu Government Gazette dated the Eighteenth May, 199 4. Notification

In exercise of the Powers conferred by Section 4 of the Tamil Nadu Revision of Tariff Rates on Supply of Electrical Energy Act, 1978 (Tamil Nadu Act 1 of 1979), the Governor of Tamil Nadu hereby makes the following amendment to the Schedule to the said Act.

2. The amendment hereby made shall came into force on the Eighteenth May, 1994.

AMENDMENT

In the said Schedule, in "Part A-High Tension Supply" under the heading "High Tension Tariff-I", under the sub-heading "Tariff concession for High Tension industries coming under High Tension-I", in Item (e) after sub-item (1), the following sub-item shall be included namely:-

"(1-A) with effect on and from the Eighteenth May, 1994, the new steel industries who get sanction of loan on or after that date shall not be eligible for any tariff concession."

4. Because of the said Government Order was issued withdrawing the tariff concession, the second respondent by its letter dated 23.8.1995 has passed the impugned order, which is extracted here under:-

"However, Government in their G.O. dated 18.5.1994 has informed that steel industry are not eligible for power subsidy and consequently capital subsidy also. In view of the above your unit will not be eligible for subsidy. Hence, it has been decided to treat the subsidy/ subsidy bridge loan sanctioned to you earlier as cancelled. "

5. Perusal of the above impugned order, it is seen that the Government has passed the said order presuming that non eligibility for power tariff concession consequently would also disentitle the petitioner for capital subsidy also. Such a conclusion is unwarranted and it is not germane to the Government Order dated

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18.5.1994 and hence the impugned order is not sustainable in law and it is only liable to be quashed and is accordingly quashed.

In the result, this writ petition is allowed as prayed for. No costs.

Index :Yes
Internet:Yes
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